

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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|--------------------------------------|---|---------------------|
| FUTURE FIBRE TECHNOLOGIES PTY. LTD., |) | |
| |) | |
| Plaintiff, |) | C.A. No: 09-346-RGA |
| |) | |
| v. |) | |
| |) | |
| OPTELLIOS, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

**JOINT MOTION TO CORRECT
INVENTORSHIP PURSUANT TO 35 U.S.C. § 256**

Plaintiff Future Fibre Technologies Pty. Ltd. (“FFT”) and defendant Optellios, Inc. (“Optellios”) respectfully move the Court to enter pursuant to 35 U.S.C. § 256 the [Proposed] Order attached as Exhibit A ordering correction of inventorship of United States Patent No. 7,142,736 (“the ‘736 patent”) to reflect two additional inventors. In support of this motion, the parties state as follows:

1. On July 25, 2008, FFT brought this action against Optellios to correct the inventorship of the ‘736 patent and for infringement of the ‘736 patent.
2. The Court may correct the named inventor of a patent pursuant to 35 U.S.C. § 256. Under § 256, “[w]henver . . . through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Director may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error. . . . The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Director shall issue a certificate accordingly.”

3. The '736 patent, which issued on November 28, 2006, named Jayantilal S. Patel, Zhizhong Zhuang, and Yuri Zadorozhny as inventors.

4. As set forth in Exhibit B, Brian Bourke, an individual residing at 28 Gramatan Avenue, Beaumaris, Victoria 3193, Australia, is not currently named as an inventor on the '736 patent. Mr. Bourke is, however, an inventor of the subject matter claimed in the '736 patent. It was an error not to name Mr. Bourke as an inventor of the '736 patent and that error arose without any deceptive intention on the part of Mr. Bourke.

5. As set forth in Exhibit C, Lee McIntosh, an individual residing at 5/14 Beach Street, Clovelly, NSW 2031, Australia, is not currently named as an inventor on the '736 patent. Mr. McIntosh is, however, an inventor of the subject matter claimed in the '736 patent. It was an error not to name Mr. McIntosh as an inventor of the '736 patent and that error arose without any deceptive intention on the part of Mr. McIntosh.

6. Under Section 256, therefore, the error of omitting Mr. Bourke and Mr. McIntosh was made without deceptive intent on their part, and they are inventors of the technology claimed in the '736 patent. Accordingly, their declarations establish that the correction of the '736 patent is in order.

7. Optellios agrees that it was error not to name Mr. Bourke and Mr. McIntosh as inventors on the '736 patent. Optellios also agrees that this error arose without any deceptive intention on the part of the currently named inventors. As additional support, the parties are submitting with this Motion the declaration designated as Exhibit D.

8. Optellios has assigned the '736 patent to FFT, and therefore, FFT is the sole assignee of the '736 patent and owns the entire right, title, and interest in the '736 patent.

9. FFT and Optellios agree that Mr. Bourke and Mr. McIntosh should be added as named inventors on the '736 patent.

WHEREFORE, FFT and Optellios respectfully request that the Court enter the [Proposed] Order attached hereto as Exhibit A.

ASHBY & GEDDES

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Dated: December 30, 2011